

# HOUSE BILL 163

P3, Q7  
HB 421/09 – W&M

CONSTITUTIONAL AMENDMENT

01r0536

---

By: **Delegates Miller, Aumann, Bartlett, Bates, Beitzel, Boteler, Costa, Dwyer, Eckardt, Elliott, Elmore, Frank, George, Haddaway, Impallaria, Jennings, King, Kipke, Krebs, McComas, McConkey, McDonough, Myers, O'Donnell, Serafini, Shank, Shewell, Smigiel, Sossi, Stull, and Walkup**

Introduced and read first time: January 20, 2010  
Assigned to: Ways and Means and Appropriations

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Taxpayers' Bill of Rights**

3 FOR the purpose of proposing an amendment to the Maryland Constitution that  
4 establishes a certain Bill of Rights for individual taxpayers in the State;  
5 requiring certain voter approval for new State or local taxes, tax rate increases,  
6 and repeal of tax exemptions; imposing certain spending limits on the State;  
7 requiring that a certain Rainy Day Fund be maintained; requiring that certain  
8 revenues received in excess of certain estimates be transferred to a certain  
9 Rainy Day Fund; prohibiting use of the Rainy Day Fund except under certain  
10 circumstances; requiring that under certain circumstances certain balances in  
11 excess of certain amounts be returned to individual taxpayers; prohibiting  
12 certain transfers from State special funds to the State General Fund;  
13 prohibiting appropriations from State special funds that supplant State General  
14 Fund appropriations or that if not made would necessitate a State General  
15 Fund appropriation; prohibiting the State from imposing certain obligations on  
16 local units of government under certain circumstances; providing for the  
17 severability of certain provisions of this Act; and submitting this amendment to  
18 the qualified voters of the State of Maryland for their adoption or rejection.

19 BY proposing an addition to the Maryland Constitution  
20 Declaration of Rights  
21 Article 15A

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
23 MARYLAND, (Three-fifths of all the members elected to each of the two Houses  
24 concurring), That it be proposed that the Maryland Constitution read as follows:

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



## 1 Declaration of Rights

## 2 ARTICLE 15A.

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
4 MEANINGS INDICATED.

5 (2) "FISCAL YEAR SPENDING" MEANS THE TOTAL AMOUNT OF  
6 MONEY APPROPRIATED BY THE STATE OTHER THAN:

7 (I) APPROPRIATIONS FUNDED WITH MONEY RECEIVED  
8 FROM THE FEDERAL GOVERNMENT;

9 (II) APPROPRIATIONS FOR THE PAYMENT OF PRINCIPAL  
10 AND INTEREST ON STATE DEBT;

11 (III) APPROPRIATIONS FUNDED BY UNEMPLOYMENT AND  
12 DISABILITY FUNDS;

13 (IV) APPROPRIATIONS FUNDED BY DISCRETIONARY USER  
14 CHARGES TO THE EXTENT THE CHARGES DO NOT EXCEED THE COST OF THE  
15 GOODS OR SERVICES PROVIDED AND THE PURCHASE BY THE USER IS  
16 DISCRETIONARY;

17 (V) APPROPRIATIONS FUNDED FROM PERMANENT  
18 ENDOWMENT, TRUST FUNDS, OR PENSION FUNDS;

19 (VI) APPROPRIATIONS FUNDED FROM THE PROCEEDS OF  
20 GIFTS OR BEQUESTS AND MADE FOR PURPOSES SPECIFIED BY THE DONOR; AND

21 (VII) MONEY APPROPRIATED FOR TAX RELIEF.

22 (3) "STATE REVENUE" MEANS ALL MONEY DERIVED FROM THE  
23 STATE'S OWN REVENUE SOURCES OTHER THAN REVENUES SUPPORTING  
24 APPROPRIATIONS EXCLUDED FROM FISCAL YEAR SPENDING UNDER  
25 PARAGRAPH (2) OF THIS SUBSECTION.

26 (B) A MAJORITY OF THE QUALIFIED VOTERS OF THE STATE OR OF A  
27 COUNTY, THE CITY OF BALTIMORE, OR A MUNICIPAL CORPORATION, AS  
28 APPROPRIATE, SHALL APPROVE, IN ADVANCE, ANY NEW STATE OR LOCAL TAX,  
29 TAX RATE INCREASE, OR REPEAL OF A TAX EXEMPTION.

30 (C) (1) (I) THE MAXIMUM ANNUAL PERCENTAGE CHANGE IN  
31 STATE FISCAL YEAR SPENDING SHALL EQUAL INFLATION PLUS THE

1 PERCENTAGE CHANGE IN STATE POPULATION IN THE PRIOR CALENDAR YEAR,  
2 ADJUSTED FOR REVENUE CHANGES APPROVED BY A MAJORITY OF THE  
3 QUALIFIED VOTERS OF THE STATE.

4 (II) POPULATION SHALL BE DETERMINED BY THE U.S.  
5 CENSUS BUREAU.

6 (III) INFLATION SHALL BE DETERMINED BY USING THE  
7 CONSUMER PRICE INDEX FOR THE WASHINGTON-BALTIMORE METROPOLITAN  
8 AREA, AS COMPUTED BY THE U.S. DEPARTMENT OF LABOR'S BUREAU OF  
9 LABOR STATISTICS.

10 (2) IF THE TOTAL STATE REVENUE FOR THE PRIOR FISCAL YEAR  
11 IS GREATER THAN THE TOTAL STATE REVENUE FOR THE NEXT PRECEDING  
12 FISCAL YEAR, THE LIMIT ON TOTAL STATE REVENUE UNDER THIS SUBSECTION  
13 FOR A FISCAL YEAR SHALL BE AN AMOUNT EQUAL TO THE LESSER OF THE  
14 TOTAL STATE REVENUE FOR THE PRIOR FISCAL YEAR OR THE LIMIT ON TOTAL  
15 STATE REVENUE UNDER THIS SUBSECTION FOR THE PRIOR FISCAL YEAR,  
16 INCREASED BY A PERCENTAGE EQUAL TO THE SUM OF INFLATION PLUS THE  
17 PERCENTAGE CHANGE IN STATE POPULATION IN THE PRIOR CALENDAR YEAR.

18 (3) IF THE TOTAL STATE REVENUE FOR THE PRIOR FISCAL YEAR  
19 IS LESS THAN THE TOTAL STATE REVENUE FOR THE NEXT PRECEDING FISCAL  
20 YEAR, THE LIMIT ON TOTAL STATE REVENUE UNDER THIS SUBSECTION FOR A  
21 FISCAL YEAR SHALL BE AN AMOUNT EQUAL TO THE LIMIT ON TOTAL STATE  
22 REVENUE UNDER THIS SUBSECTION FOR THE MOST RECENT FISCAL YEAR FOR  
23 WHICH THE TOTAL STATE REVENUE EXCEEDED THE TOTAL STATE REVENUE  
24 FOR THE PRECEDING FISCAL YEAR.

25 (D) (1) THE STATE SHALL MAINTAIN A RAINY DAY FUND EQUAL TO  
26 AT LEAST 5% OF THE ESTIMATED STATE GENERAL FUND REVENUES FOR EACH  
27 FISCAL YEAR.

28 (2) IF THE TOTAL STATE GENERAL FUND REVENUES RECEIVED  
29 FOR ANY FISCAL YEAR EXCEED THE AMOUNTS ESTIMATED TO BE RECEIVED FOR  
30 THE FISCAL YEAR, AS ESTIMATED AFTER ADJOURNMENT SINE DIE OF THE  
31 REGULAR SESSION OF THE GENERAL ASSEMBLY AT WHICH THE BUDGET FOR  
32 THE FISCAL YEAR PASSED, THE TOTAL AMOUNT OF THAT EXCESS SHALL BE  
33 DISTRIBUTED TO THE RAINY DAY FUND.

34 (3) MONEY IN THE RAINY DAY FUND MAY BE USED ONLY AS  
35 PROVIDED IN THIS SUBSECTION.

1           **(4) FOR ANY FISCAL YEAR FOR WHICH THE ESTIMATED STATE**  
2 **GENERAL FUND REVENUES FOR A FISCAL YEAR ARE LESS THAN THE STATE**  
3 **GENERAL FUND REVENUES FOR THE PRECEDING FISCAL YEAR, AN AMOUNT**  
4 **SHALL BE TRANSFERRED FROM THE RAINY DAY FUND TO THE STATE GENERAL**  
5 **FUND EQUAL TO THE AMOUNT BY WHICH STATE GENERAL FUND REVENUES FOR**  
6 **THE PRECEDING FISCAL YEAR EXCEED THE ESTIMATED STATE GENERAL FUND**  
7 **REVENUES FOR THE FISCAL YEAR.**

8           **(5) AFTER ANY AUTHORIZED TRANSFER UNDER PARAGRAPH (4)**  
9 **OF THIS SUBSECTION, IF THE BALANCE IN THE RAINY DAY FUND AT THE END**  
10 **OF ANY FISCAL YEAR EXCEEDS 7% OF THE ESTIMATED STATE GENERAL FUND**  
11 **REVENUES FOR THE UPCOMING FISCAL YEAR, AN AMOUNT EQUAL TO THE**  
12 **DIFFERENCE BETWEEN THE BALANCE IN THE RAINY DAY FUND AND 5% OF THE**  
13 **ESTIMATED STATE GENERAL FUND REVENUES FOR THE UPCOMING FISCAL**  
14 **YEAR SHALL BE RESERVED IN THE UPCOMING FISCAL YEAR AND RETURNED TO**  
15 **INDIVIDUAL TAXPAYERS IN THE TAXABLE YEAR THAT BEGINS DURING THE**  
16 **UPCOMING FISCAL YEAR, THROUGH A TEMPORARY INCOME TAX RATE**  
17 **REDUCTION.**

18           **(E) (1) EXCEPT FOR TRANSFERS FROM THE RAINY DAY FUND TO**  
19 **THE STATE GENERAL FUND AS AUTHORIZED UNDER THIS ARTICLE, FUNDS MAY**  
20 **NOT BE TRANSFERRED FROM ANY STATE SPECIAL FUND TO THE STATE**  
21 **GENERAL FUND.**

22           **(2) NO APPROPRIATIONS MAY BE MADE FROM STATE SPECIAL**  
23 **FUNDS THAT:**

24                   **(I) SUPPLANT STATE GENERAL FUND APPROPRIATIONS;**  
25 **OR**

26                   **(II) IF NOT MADE, WOULD NECESSITATE A STATE GENERAL**  
27 **FUND APPROPRIATION.**

28           **(3) FOR PURPOSES OF THIS SUBSECTION, AN APPROPRIATION**  
29 **FUNDED BY USER CHARGES OR FEES IMPOSED ON GOODS OR SERVICES THAT DO**  
30 **NOT EXCEED THE COST OF THE GOODS OR SERVICES PROVIDED MAY NOT BE**  
31 **DEEMED TO BE AN APPROPRIATION THAT SUPPLANTS A STATE GENERAL FUND**  
32 **APPROPRIATION.**

33           **(F) THE STATE MAY NOT IMPOSE ON ANY LOCAL UNIT OF GOVERNMENT**  
34 **ANY PART OF THE TOTAL COSTS OF NEW PROGRAMS OR SERVICES, OR**  
35 **INCREASES IN EXISTING PROGRAMS OR SERVICES, UNLESS A SPECIFIC**  
36 **APPROPRIATION IS MADE SUFFICIENT TO PAY THE LOCAL UNIT OF**  
37 **GOVERNMENT FOR THAT PURPOSE.**

1           **(G) IF A COURT OF COMPETENT JURISDICTION ADJUDGES IN A FINAL**  
2 **ORDER THAT ANY EXPENDITURE CATEGORY OR REVENUE SOURCE IS EXEMPT**  
3 **FROM THIS ARTICLE, THE PROCESS OF COMPUTING THE EXPENDITURE**  
4 **LIMITATION SHALL BE ADJUSTED ACCORDINGLY AND REMAINING PROVISIONS**  
5 **SHALL BE IN FULL FORCE AND EFFECT.**

6           SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly  
7 determines that the amendment to the Maryland Constitution proposed by this Act  
8 affects multiple jurisdictions and that the provisions of Article XIV, § 1 of the  
9 Maryland Constitution concerning local approval of constitutional amendments do not  
10 apply.

11           SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section  
12 proposed as an amendment to the Maryland Constitution shall be submitted to the  
13 legal and qualified voters of this State at the next general election to be held in  
14 November, 2010 for their adoption or rejection pursuant to Article XIV of the  
15 Maryland Constitution. At that general election, the vote on this proposed amendment  
16 to the Constitution shall be by ballot, and upon each ballot there shall be printed the  
17 words “For the Constitutional Amendment” and “Against the Constitutional  
18 Amendment,” as now provided by law. Immediately after the election, all returns shall  
19 be made to the Governor of the vote for and against the proposed amendment, as  
20 directed by Article XIV of the Maryland Constitution, and further proceedings had in  
21 accordance with Article XIV.